

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Robert Manukyan	Team: Squad #6	CCRB Case #: 201510233	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/25/2015 9:07 PM	Location of Incident: West 33rd Street, Between 5th and 6th Avenue	Precinct: 14	18 Mo. SOL 5/25/2017	EO SOL 5/25/2017	
Date/Time CV Reported Wed, 12/02/2015 2:07 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/02/2015 2:07 PM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Witness(es)</b>	<b>Home Address</b>				
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. POM Declan Ludington	14327	953018	SOD SRG		
<b>Officer(s)</b>	<b>Allegation</b>			<b>Investigator Recommendation</b>	
A.POM Declan Ludington	Force: PO Declan Ludington used physical force against § 87(2)(b)				

### Case Summary

On December 2, 2015, § 87(2)(b) called the CCRB to file this complaint (BR 01).

On November 25, 2015, at approximately 9:07 p.m. in the vicinity of 33<sup>rd</sup> Street and 5<sup>th</sup> Avenue in Manhattan, § 87(2)(b) was part of the Black Lives Matter protest and was marching with a large group of people. When § 87(2)(b) and the other protestors turned the corner on 33<sup>rd</sup> Street, PO Declan Ludington of SRG-2 commanded § 87(2)(b) to get off the street and onto the sidewalk. § 87(2)(b) responded by telling PO Ludington to stop pushing the protestors. PO Ludington proceeded to bring § 87(2)(b) to the ground, by allegedly throwing § 87(2)(b) down to the ground (**Allegation A**). The left side of § 87(2)(b)'s head allegedly made contact with the ground and resulted in head and neck injuries. Once on the ground, § 87(2)(b) was handcuffed and transported to the 7<sup>th</sup> Precinct stationhouse. § 87(2)(b) was subsequently released with a summons for failing to disperse.

The investigation was able to obtain video footage of § 87(2)(b) being handcuffed on the ground and consequently being brought to the NYPD prisoner van. However, the investigation was unable to obtain any video footage of the period of time during which the allegation would have taken place.

This case was reassigned from Investigator Candace Taylor on December 11, 2015.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation § 87(2)(b)
- As of February 22, 2016, § 87(2)(b) has not filed a Notice of Claim with respect to this incident (BR 09).

- § 87(2)(b), § 87(2)(c)  
[REDACTED]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (BR 10).
- PO Ludington has been a member of the service for 3 years. There are 8 prior allegations against PO Ludington that occurred between 2012 and 2016, one of which has been substantiated. In 2013, an allegation of offensive language – race was made against PO Ludington. This allegation fell under CCRB case #201310095. The board recommended instructions, which was the NYPD disposition as well.

### Findings and Recommendations

#### **Allegation A – Force: PO Declan Ludington used physical force against § 87(2)(b)**

It is undisputed that PO Ludington commanded § 87(2)(b) to get onto the sidewalk. However, there are differing accounts as to where § 87(2)(b) was standing when this instruction was given and whether he was attempting to adhere to this instruction. It is also undisputed that

PO Ludington brought § 87(2)(b) to the ground and proceeded to handcuff him. However, the amount of force used and whether any injuries were sustained is disputed.

§ 87(2)(b) stated that on November 25, 2015 (BR 02) he was participating in a political demonstration that he helped organize with other activists. The demonstration consisted of approximately five-hundred protestors, but decreased to about two or three hundred protestors as the march advanced. The march started from Washington Square Park and ended at the intersection of 33rd Street and Fifth Avenue in Manhattan, which is where § 87(2)(b) and other protestors turned the corner of the street. § 87(2)(b) observed about twenty protestors being pushed and was subsequently approached by PO Ludington, who told § 87(2)(b) to get onto the sidewalk. § 87(2)(b) believed that he was on the sidewalk and close to a parked car. § 87(2)(b) told PO Ludington to stop pushing the protestors at least three times. § 87(2)(b) believed that PO Ludington may have said “move” at some point during this initial interaction. § 87(2)(b) noted that he and PO Ludington may have been speaking loudly to one another as it was noisy around them.

§ 87(2)(b) was standing in front of PO Ludington when PO Ludington pushed him twice on his left arm. PO Ludington again pushed § 87(2)(b) this time to § 87(2)(b)'s torso, and then grabbed § 87(2)(b)'s shirt. § 87(2)(b) believed that PO Ludington proceeded to throw him to the ground, but was not certain. § 87(2)(b) landed on his side and struck the left side of his head against the pavement. § 87(2)(b) briefly lost consciousness, but recalled three officers on top of him placing him in handcuffs. § 87(2)(b) was uncertain as to how the officers were positioned at this point. The officers then picked up § 87(2)(b) up off the ground and took him into a van which was filled with other protestors. § 87(2)(b) was then taken to the 7<sup>th</sup> Precinct stationhouse and ultimately released with a summons for failing to disperse.

While at the stationhouse, § 87(2)(b) began to feel dizzy and nauseous, and had pain in his head. § 87(2)(b) also noticed a lump on the left side of his head where he made contact with the ground. In addition, § 87(2)(b) sustained a bruise to his left knee. § 87(2)(b) did not request medical attention at any point during the incident. However, between approximately midnight and 1 a.m. the following day (November 26, 2015), § 87(2)(b) was taken to § 87(2)(b) and informed that he had suffered a mild concussion. § 87(2)(b) also sent the investigation photos which show a small abrasion on his left temple as well as an abrasion on his left kneecap (BR 04).

§ 87(2)(g) his medical records (see Privileged Documents) note that that § 87(2)(b) was pushed to the ground and that he did not lose consciousness. § 87(2)(b)'s medical records also note that he was diagnosed with a minor head and neck injury, with the recommended treatment being one gram of Tylenol every eight hours for pain as needed.

In her in-person statement to the CCRB (BR 03), § 87(2)(b) said that she was participating in the march with § 87(2)(b). § 87(2)(b) did not attend the march with § 87(2)(b) but could easily identify him in the crowd due to his distinctive features. § 87(2)(b) met § 87(2)(b) about a year ago and was familiar with him as they have attended the same protests. § 87(2)(b) was marching about twenty feet, or two car lengths, behind § 87(2)(b) but there were a couple people in between her and § 87(2)(b). Protestors had walked on the street throughout the march and multiple officers had given the protestors instructions to stay on the sidewalk at numerous points. § 87(2)(b) was unsure as to whether PO Ludington gave those instructions to § 87(2)(b) but saw § 87(2)(b) move towards the sidewalk with the group of people around him. § 87(2)(b) reached the sidewalk and walked on it for a few seconds before PO Ludington grabbed him and threw him off of the sidewalk and onto the ground in the street.

§ 87(2)(b) was thrown in a “whip-like fashion”. The environment was chaotic and there were a few seconds where people in between § 87(2)(b) and § 87(2)(b) blocked her view of the incident. However, she clearly saw § 87(2)(b) being thrown to the ground and subsequently arrested.

In her phone statement to the CCRB (BR 05), § 87(2)(b) another protestor acquainted with § 87(2)(b) said that she did not observe § 87(2)(b) at the Black Lives Matter protest until after he was handcuffed. § 87(2)(b) also added that § 87(2)(b) was slammed to the ground after he was handcuffed, which neither § 87(2)(b) nor § 87(2)(b) alleged.

§ 87(2)(g)

PO Ludington (BR 06) stated that on November 25, 2015, his detail was assigned to help with a large group of protestors marching in downtown Manhattan. Orders were given to walk alongside the protestors and allow them to march and demonstrate as long as they were on the sidewalk. The protestors were not allowed to enter the street and PO Ludington’s detail was advised to make arrests as necessary. While PO Ludington walked alongside the march, protestors who were originally on the sidewalk rounded a street corner and began walking on the street. PO Ludington commanded § 87(2)(b) and two other protestors he was walking with, to get onto the sidewalk. Although there were protestors other than § 87(2)(b) walking on the street, PO Ludington specifically gave § 87(2)(b) and the two other protestors he was with these commands because they were in his immediate vicinity, as PO Ludington was two to three feet away from them. § 87(2)(b) did not comply with PO Ludington’s command, even though PO Ludington said it at least three times, with a two to three second pause in between each command. PO Ludington was facing § 87(2)(b) and looking at him. § 87(2)(b) did not make any movement toward the sidewalk and PO Ludington approached him.

§ 87(2)(b) then told PO Ludington, “Fuck you, fuck you, you can’t do that”, at which point § 87(2)(b) was considered to be under arrest. PO Ludington grabbed either § 87(2)(b)’s arm or the middle of his chest area, and for his own safety, moved § 87(2)(b) away from the group. PO Ludington moved § 87(2)(b) further into the street, but did not know how far he moved him or how far they were from the sidewalk. § 87(2)(b) was standing alongside PO Ludington the entire time he was being moved away from the group. PO Ludington then guided § 87(2)(b) onto the ground using § 87(2)(b)’s arms, in order to quickly rear-cuff him and escort him away from the group. PO Ludington did not remember what part of § 87(2)(b)’s body made contact with the ground when he was brought down, or how exactly how § 87(2)(b) came down. § 87(2)(b) did not appear to sustain any injuries when he was brought to the ground, nor did he complain of any injuries at any point during the incident. Once he was handcuffed, § 87(2)(b) was taken to the prisoner van and driven to the 7<sup>th</sup> Precinct Stationhouse.

The summons that PO Ludington wrote corroborates his account of the incident, as the Factual Allegations section states, “Def observed in public street with intent to cause disruption. Gather with others. When ordered to go onto sidewalk Def did not comply. A/O asked three times to return to sidewalk. Def remained on street” (see NYPD Documents). PO Ludington’s memo book entries (see NYPD Documents) about the incident also support his account of the incident. The memo book entries state that the defendant was asked three times to go back onto the sidewalk, but did not comply.

Officers must use the minimum level of force necessary to overcome resistance and effect an arrest. Patrol Guide Section 203-11 (BR 11).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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Squad: 6

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Pod Leader: \_\_\_\_\_  
Title/Signature                      Print                      Date

Attorney: \_\_\_\_\_  
Title/Signature                      Print                      Date